

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

**PERMIT FOR DIVERSION AND USE OF WATER**

PERMIT 21116

Application T031230 of **Monterey Peninsula Water Management District**  
**P.O. Box 85**  
**Monterey, CA 93942-0085**

filed on **September 27, 2001**, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

**Permittee is hereby authorized to divert and use water as follows:**

1. Source of water

Source	Tributary to
<u><b>Carmel River (Subterranean Stream)</b></u>	<u><b>Pacific Ocean</b></u>

within the County of **Monterey**.

2. Location of points of diversion and redirection

By California Coordinate System of 1927 in Zone 4	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
<b>San Clemente Dam; North 412,600 feet and East 1,203,650 feet</b>	<b>NW¼ of SW¼</b>	<b>24</b>	<b>17S</b>	<b>2E</b>	<b>MD</b>
<b>Canada Well; North 451,600 feet and East 1,153,800 feet</b>	<b>NE¼ of SW¼</b>	<b>17</b>	<b>16S</b>	<b>1E</b>	<b>MD</b>
<b>San Carlos Well; North 451,250 feet and East 1,156,600 feet</b>	<b>NE¼ of SE¼</b>	<b>17</b>	<b>16S</b>	<b>1E</b>	<b>MD</b>
<b>Cypress Well; North 447,200 feet and East 1,163,250 feet</b>	<b>SW¼ of NW¼</b>	<b>22</b>	<b>16S</b>	<b>1E</b>	<b>MD</b>
<b>Pearce Well; North 446,950 feet and</b>	<b>SE¼ of NW¼</b>	<b>22</b>	<b>16S</b>	<b>1E</b>	<b>MD</b>

<b>East 1,164,750 feet</b>					
<b>Schulte Well; North 447,000 feet and East 1,167,850 feet</b>	<b>SW¼ of NW¼</b>	<b>23</b>	<b>16S</b>	<b>1E</b>	<b>MD</b>
<b>Manor #2 Well; North 446,050 feet and East 1,169,950 feet</b>	<b>NE¼ of SW¼</b>	<b>23</b>	<b>16S</b>	<b>1E</b>	<b>MD</b>
<b>Begonia #2 Well; North 445,100 feet and East 1,173,350 feet</b>	<b>NW¼ of SW¼</b>	<b>24</b>	<b>16S</b>	<b>1E</b>	<b>MD</b>
<b>Berwick #7 Well; North 444,050 feet and East 1,173,900 feet</b>	<b>SW¼ of SW¼</b>	<b>24</b>	<b>16S</b>	<b>1E</b>	<b>MD</b>
<b>Berwick #8 Well; North 444,100 feet and East 1,174,700 feet</b>	<b>SE¼ of SW¼</b>	<b>24</b>	<b>16S</b>	<b>1E</b>	<b>MD</b>
<b>Scarlett #8 Well; North 444,100 feet and East 1,179,200 feet</b>	<b>SW¼ of SW¼</b>	<b>19</b>	<b>16S</b>	<b>2E</b>	<b>MD</b>
<b>Los Laureles #5 Well; North 439,900 feet and East 1,187,200 feet</b>	<b>NW¼ of SE¼</b>	<b>29</b>	<b>16S</b>	<b>2E</b>	<b>MD</b>
<b>Los Laureles #6 Well; North 439,100 feet and East 1,188,050 feet</b>	<b>SE¼ of SE¼</b>	<b>29</b>	<b>16S</b>	<b>2E</b>	<b>MD</b>
<b>West Garzas #4 Well; North 434,850 feet and East 1,190,800 feet</b>	<b>NE¼ of SW¼</b>	<b>33</b>	<b>16S</b>	<b>2E</b>	<b>MD</b>
<b>Garzas Creek #3 Well; North 433,200 feet and East 1,191,650 feet</b>	<b>SW¼ of SE¼</b>	<b>33</b>	<b>16S</b>	<b>2E</b>	<b>MD</b>
<b>Panetta #2 Well; North 431,700 feet and East 1,193,350 feet</b>	<b>NW¼ of NW¼</b>	<b>3</b>	<b>17S</b>	<b>2E</b>	<b>MD</b>
<b>Panetta #1 Well; North 431,550 feet and East 1,193,250 feet</b>	<b>NW¼ of NW¼</b>	<b>3</b>	<b>17S</b>	<b>2E</b>	<b>MD</b>
<b>Robles #3 Well; North 426,700 feet and East 1,198,100 feet</b>	<b>NE¼ of NE¼</b>	<b>10</b>	<b>17S</b>	<b>2E</b>	<b>MD</b>
<b>Russell #4 Well; North 421,400 feet and East 1,202,650 feet</b>	<b>SW¼ of SE¼</b>	<b>14</b>	<b>17S</b>	<b>2E</b>	<b>MD</b>
<b>Russell #2 Well; North 421,000 feet and East 1,202,650 feet</b>	<b>SE¼ of SE¼</b>	<b>14</b>	<b>17S</b>	<b>2E</b>	<b>MD</b>

<b>(Point of Rediversion) Seaside Basin Pilot Injection Well; North 480,600 feet and East 1,173,300 feet</b>	<b>NE¼ of NE¼</b>	<b>23</b>	<b>15S</b>	<b>1E</b>	<b>MD</b>
<b>(Point of Rediversion) Seaside Basin Injection Well No. 1; North 480,550 feet and East 1,173,700 feet</b>	<b>NE¼ of NE¼</b>	<b>23</b>	<b>15S</b>	<b>1E</b>	<b>MD</b>
<b>(Point of Rediversion) Ord Grove #1 Well; North 479,850 feet and East 1,172,150 feet</b>	<b>NW¼ of NE¼</b>	<b>23</b>	<b>15S</b>	<b>1E</b>	<b>MD</b>

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
<b>Municipal</b>	<b>110,000 acres within the boundaries of the Monterey Peninsula Water Management District</b>					

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 750 acre-feet per annum (afa) to be collected to underground storage in the Seaside Basin at a maximum rate of 4.5 cubic feet per second from December 1, 2001 through May 31, 2002.
6. This permit expires 180 days from the date of its issuance or May 31, 2002, whichever comes first.
7. For the protection of fish and wildlife, permittee shall divert only when the minimum instream flow requirements (described in SWRCB Decision 1632 on Permit Table B) of 40 cubic-feet per second (cfs) is reaching the Carmel River Lagoon, as measured at the Carmel River, Highway 1 gauging station during the months of December through May 2001. To further preclude jeopardizing Carmel River Steelhead, MPWMD has agreed with inclusion of the following conditions, as measured at the Carmel River, Highway 1 gaging station. Year type definitions are those contained in D1632.

December in all year types - maintain 40.0 cfs to the Lagoon.

January through March in below normal and normal or wetter Years –

When an attraction event is projected, maintain 200 cfs to the Lagoon for the duration of the attraction event. Following an attraction event, maintain migration flows of 200 to 60 cfs to the Lagoon, depending on estimated natural recession rates. Following the migration period, maintain 40 cfs to the Lagoon.

January through March in Dry Years - same flow requirements as normal or wetter years except that:

- a.) Whenever an attraction event is projected, maintain 200 cfs to the Lagoon in January, 100 cfs in February and 75 cfs in March for the duration of the attraction event.
- b.) Following the migration period, maintain 40 cfs to the Lagoon.

April and May in all year types - maintain 40 cfs to the Lagoon.

(0000005)

8. Permittee shall install and maintain measuring devices, satisfactory to the SWRCB, which are capable of (1) measuring the instantaneous rate of diversion and the cumulative quantity of water diverted to the Seaside Basin injection well(s) and (2) the cumulative quantity of water extracted from the Seaside Basin. Permittee shall also ensure that the Carmel River Highway 1 gaging station is operational at all times during the diversion season.

(0110900)

(0510900)

9. Permittee shall report to the SWRCB by July 1, 2002, the maximum rate of diversion and total quantity of water diverted under this temporary permit.

(0510900)

10. Permittee shall cease all diversions under this temporary permit at any time diversions are being made pursuant to Permit 20808.

11. The source of water for the test of the Seaside Basin injection/ground water recharge project is the Carmel River. All diversions and rediversions will be accomplished using California-American Water Company (Cal-Am) facilities and the water will be supplied to the Cal-Am service area. Therefore, Carmel River water diverted under this temporary permit shall be counted when evaluating compliance with the withdrawal quantities from the Carmel River by Cal-Am as set forth in Condition 1 of SWRCB Order 95-10. The amount of water diverted under this temporary permit credited towards Condition 1 of SWRCB Order 95-10 shall be the lesser of:

- a. The amount of water produced from the Seaside Basin in excess of 4,025 acre-feet of water (Cal-Am's share of the current estimated safe-yield of the Seaside Basin), or
  - b. The total amount of the water diverted under this temporary permit during water year 2001-2002.
12. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.
- (0000014)
13. The SWRCB may supervise diversion and use of water under this temporary permit for the protection of lawful users of water and instream beneficial uses and for compliance with permit conditions. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this temporary permit.
14. This temporary permit is issued and permittee takes it subject to California Water Code, Division 2, Chapter 6.5, section 1425, et seq. Any temporary permit issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the SWRCB.
- (0510800)
15. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this temporary permit including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this temporary permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

(0000012)

16. Issuance of this temporary permit shall not be construed as indicating SWRCB approval of water right permits requested under other pending applications.

(0510999)

*This permit is issued and permittee takes it subject to the following provisions of the Water Code:*

*Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.*

*Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.*

*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

On August 9, 1999, the SWRCB adopted Resolution 99-031-3.2.22; delegating the Chief of the Division of Water Rights the authority to approve proposed temporary permits pursuant to Water Code sections 1425(b), where no objections are outstanding and where it is found that: (1) there is an urgent need for the proposed diversion and use of water; (2) the proposed diversion and use of water may be made without injury to any lawful user of water; (3) the proposed diversion and use of water may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses; and (4) the proposed diversion and use is in the public interest.

The notice of application for this temporary permit was issued on October 2, 2001. Timely letters were received from the Save our Carmel River (SOCR) and the California American Water Company. The letter received from SOCR supported the temporary permit provided the same terms and conditions issued in last year's temporary permit were included in this year's temporary permit. The letter received from Cal-Am indicated support for the temporary permit but questioned the urgent need for the current temporary permit. Urgent need was determined to exist in this project due to the lack of sufficient water rights and supplies to meet present domestic and municipal demand. Cal-Am also noted that they should be responsible for the water rights, temporary or permanent related to the injection testing as they own the well system and conveyance facilities.

As chief of the Division of Water Rights, I conclude, based on the available information that:

1. There is an urgent need for the proposed diversion and use of water;
2. The proposed diversion and use of water may be made without injury to any lawful user of water;
3. The proposed diversion and use of water may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses; and
4. The proposed diversion and use is in the public interest.

Therefore, this proposed temporary permit is approved; subject to my jurisdiction to supervise the diversion and use of water under this temporary permit and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses, and the public interest as future conditions may warrant.

**Dated:** DEC 3 2001

STATE WATER RESOURCES CONTROL BOARD

*David R. Bueing*  
for Chief, Division of Water Rights